



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II, SUITE 7000
GUAYNABO, PUERTO RICO 00968-8069

030217

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Randy Jansen
President
Peñuelas Valley Landfill, LLC
P. O. Box 918, Punta Santiago
Puerto Rico 00741-0918

**Re: Administrative Compliance Order
Peñuelas Valley Landfill, LLC./E.C. Waste, LLC.
Docket Number CWA-02-2017-3103
NPDES Tracking Number PRR053203**

Dear Mr. Jansen:

The United States Environmental Protection Agency (EPA), Region 2, has made findings that the Peñuelas Valley Landfill, LLC./E.C. Waste, LLC. ("PVL/ECW") is in violation of the Clean Water Act (the "Act"), 33 U.S.C. §1251 *et seq.* Enclosed are two (2) originals of the Administrative Compliance Order (ORDER) Docket Number CWA-02-2017-3103, issued to PVL/ECW pursuant to Section 309(a) of the Act, 33 U.S.C. §1319(a), which details EPA's findings of violation.

Please acknowledge receipt of the Order on one of the originals and return it by mail. Failure to comply with the enclosed ORDER may subject PVL/ECW to civil and/or criminal penalties pursuant to Section 309 of the Act. Failure to comply with this ORDER may also subject PVL/ECW to ineligibility for participation in work associated with Federal contracts, grants, or loans.

If you have any questions regarding this matter, please contact Mr. Jaime Lopez, of the Multimedia Permits and Compliance Branch, Clean Water Act Team, at (787) 977-5851.

Sincerely,

A handwritten signature in blue ink, appearing to be "CJP".

Carmen R. Guerrero-Perez
Director
Caribbean Environmental
Protection Division

Enclosures

cc: Angel Meléndez, EQB (w/ Order)

7015 0920 0000 8688 3883

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2

IN THE MATTER OF:

PEÑUELAS VALLEY LANDFILL, LLC.
P. O. Box 918
Punta Santiago, Puerto Rico 00741-0918

E.C. WASTE, LLC.
P. O. Box 918
Punta Santiago, Puerto Rico 00741-0918

Facility Name

Peñuelas Valley Landfill
Road PR-385, Km .4.5, Tallaboa Ward
Peñuelas, Puerto Rico
NPDES Tracking Number PRR053203

RESPONDENT

Proceeding pursuant to Sections 308(a) and 309(a) of
the Clean Water Act, 33 U.S.C. §§ 1318(a) and 1319(a)

ADMINISTRATIVE
COMPLIANCE ORDER AND
INFORMATION REQUEST

DOCKET NUMBER
CWA-02-2017-3103

ACKNOWLEDGMENT OF RECEIPT OF
ADMINISTRATIVE
COMPLIANCE ORDER

I, _____, do hereby acknowledge the receipt of a
true copy of the ADMINISTRATIVE COMPLIANCE ORDER, CWA-02-2017-3103.

Pursuant to the signatories requirements in 40 CFR§122.22, I certify that I am
authorized to sign this acknowledgement.

Print Name and Title

Date

Signature

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

PEÑUELAS VALLEY LANDFILL, LLC.
P. O. Box 918
Punta Santiago, Puerto Rico 00741-0918

E.C. WASTE, LLC.
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Peñuelas Valley Landfill
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RESPONDENT

Proceeding pursuant to Sections 308(a) and 309(a) of
the Clean Water Act, 33 U.S.C. §§ 1318(a) and 1319(a)

**ADMINISTRATIVE
COMPLIANCE ORDER AND
INFORMATION REQUEST**

**DOCKET NUMBER
CWA-02-2017-3103**

I. PRELIMINARY STATEMENT

1. This Administrative Compliance Order and Information Request (together the "Order") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") pursuant to Sections 308(a) and 309(a) of the Clean Water Act ("CWA" or the "Act"), 33 U.S.C. §§ 1318(a) and 1319(a).
2. The Administrator has delegated the authority to take these actions to the Regional Administrator of Region 2, who in turn, has delegated such authority to the Director of the Caribbean Environmental Protection Division.

II. STATUTORY AND REGULATORY AUTHORITIES

3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), provides in part that "[e]xcept as in compliance with [CWA Section 402], the discharge of any pollutant by any person shall be unlawful."

4. Section 402 of the CWA, 33 U.S.C. § 1342, defines the National Pollutant Discharge Elimination System ("NPDES") as the national program for, among other things, issuing and enforcing discharge permits.
5. Section 402 of the CWA authorizes the Administrator to promulgate regulations for the implementation of the NPDES requirements.
6. Section 402(a)(1) of the CWA, 33 U.S.C. § 1342(a)(1), provides that "the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant upon condition that such discharge will meet such requirements as the Administrator determines are necessary to carry out the provisions of the [CWA]."
7. Pursuant to the CWA, EPA promulgated regulations known as "EPA Administered Permit Programs: the National Pollutant Discharge Elimination System," which was codified at 40 C.F.R. Part 122, as amended.
8. Pursuant to the NPDES regulations at 40 C.F.R. § 122.1(b)(1), the NPDES Permit Program requires permits for the discharge of any pollutant from any point source into waters of the United States.
9. Pursuant to 40 C.F.R. § 122.21(a)(1), any person who discharges or proposes to discharge pollutants, and who does not have an effective permit, must submit a complete NPDES permit application to EPA.
10. Pursuant to 40 C.F.R. § 122.21(a)(2)(i), all applicants for EPA-issued NPDES permits must submit applications on EPA permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there.
11. Pursuant to 40 C.F.R. § 122.21(d)(2), permittees with currently effective permits shall submit a new application one hundred eighty (180) days before the existing permit expires, except that the Regional Administrator may grant permission to submit an application later than the deadline for submission otherwise applicable, but no later than the permit expiration date.
12. Section 402(p)(2)(B) of the CWA authorizes the Administrator of EPA to issue NPDES permits to stormwater discharges associated with industrial activity.
13. Pursuant to the CWA, EPA promulgated NPDES regulations defining the term "stormwater associated with industrial activity." 40 C.F.R. § 122.26(b).
14. Pursuant to the NPDES regulations at 40 C.F.R. §§ 122.26(a)(1)(ii) and 122.26(b)(14), certain facility operators are required to obtain an NPDES permit for stormwater discharges associated with industrial activity.

15. Pursuant to 40 C.F.R. § 122.26(b)(14)(v), landfills, land application sites, and open dumps that receive or have received any industrial waste including those that are subject to the regulation under subtitle D of the Resource Conservation and Recovery Act were included in the definition of stormwater associated with industrial activity.
16. The CWA and its implementing NPDES regulations contain the following definitions:
 - a. "Administrator" means the Administrator of EPA, or an authorized representative. 40 C.F.R. § 122.2;
 - b. "Best Management Practices" or "BMPs" mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. 40 C.F.R. § 122.2;
 - c. "discharge of a pollutant" means any addition of any pollutant to navigable waters and/or waters of the United States from any point source. Section 502(12) of the CWA, 33 U.S.C. § 1362(12), and 40 C.F.R. § 122.2;
 - d. "facility" means any NPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to the regulations of the NPDES program. 40 C.F.R. § 122.2;
 - e. "industrial activity" means the eleven categories of industrial activities included in the definition of "stormwater discharges associated with industrial activity" as defined in 40 C.F.R. §§ 122.26(b)(14)(i)-(xi);
 - f. "navigable waters" means the waters of the United States, including the territorial seas. Section 502(7) of the CWA, 33 U.S.C. § 1362(7);
 - g. "owner" or "operator" means the owner or operator of any facility or activity subject to regulation under the NPDES program. 40 C.F.R. § 122.2;
 - h. "permit" means an authorization, license, or equivalent control document issued by EPA or an "approved State" to implement the requirements of 40 C.F.R. Parts 122, 123 and 124. The term "permit" does not include any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit." 40 C.F.R. § 122.2;
 - i. "person" means an individual, corporation, partnership or association. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2;

- j. "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), and 40 C.F.R. § 122.2;
- k. "pollutant" includes solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged into water. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), and 40 C.F.R. § 122.2;
- l. "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles. Section 502(8) of the CWA, 33 U.S.C. § 1362(8);
- m. "site" means the land or water area where any "facility" or "activity" is physically located or conducted, including adjacent land used in connection with the facility or activity. 40 C.F.R. § 122.2;
- n. "stormwater associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. 40 C.F.R. §§ 122.2 and 122.26(b)(14); and
- o. "waters of the United States" means all waters such as lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, among others, and their tributaries. 40 C.F.R. § 122.2.

17. The following definitions and "terms" apply in this Order:

- a. "Non-structural BMP" means best management practices that generally consist of processes, prohibitions, procedures, and schedules of activities that prevent pollutants associated with industrial activity from contacting with stormwater discharges and authorized non-stormwater discharges. They are considered low technology, cost-effective measures, and do not involve construction and installation, and usually work by changing behavior, persuasion and/or economic instruments;
- b. "Standard Operating Procedure(s)" or "SOP(s)" means the established or prescribed method(s) to be followed routinely for the performance of designated environmental compliance activities, operations, or in designated situations; and

- c. "Structural BMP" means the fixed, permanent physical structures and equipment requiring planning, design construction and maintenance that are designed to remove pollutants from stormwater runoff, reduce downstream erosion, provide flood control and promote groundwater recharge.
18. On October 30, 2000, EPA reissued the NPDES Multi-Sector General Permit for Stormwater Discharges from Industrial Activities (the "2000 MSGP") pursuant to Section 402(p) of the Act, 33 U.S.C. § 1342(p). The 2000 MSGP became effective on October 30, 2000 and expired on October 30, 2005.
19. On September 29, 2008, EPA re-issued the NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "2008 MSGP"). The 2008 MSGP became effective on September 29, 2008, and expired on September 29, 2013.
20. The 2000 MSGP and the 2008 MSGP established among others, Notice of Intent ("NOI") filing requirements to obtain permit coverage, development and implementation of a Stormwater Pollution Prevention Plan ("SWPPP"), monitoring, reporting, and other special and general conditions. Particularly, the 2000 MSGP and the 2008 MSGP included special conditions and requirements applicable to landfills in Part 6.L and Part 8, Subpart L, respectively.
21. Coverage under the 2000 MSGP and 2008 MSGP were administratively extended for those operators who obtained coverage prior their expiration dates of October 30, 2005 and September 29, 2013, respectively, until such time reissuance of the permit occurred, at which time the permittee must comply with the NOI filing conditions of the issued new permit to maintain authorization to discharge stormwater associated with industrial activities.
22. Part B.1 (Duty to Comply) of the 2008 MSGP required the permittee to comply with all conditions of the 2008 MSGP. Any permit noncompliance constitutes a violation of the CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
23. Part B.2 (Duty to Reapply) of the 2008 MSGP indicated that if the permittee wished to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain authorization as required by the new permit once issued by EPA.
24. On June 4, 2015, EPA re-issued the NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "2015 MSGP"), as authorized under Section 402(p) of the CWA, 33 U.S.C. § 1342(p). The 2015 MSGP became effective on June 4, 2015 and will expire on June 4, 2020.

25. The 2015 MSGP also established NOI filing requirements, development and implementation of a SWPPP, inspections, monitoring, reporting, recordkeeping and other special and general conditions.
26. Part 1.2. of the 2015 MSGP establishes the eligibility and NOI filing requirements for operators of industrial activities covered under the 2015 MSGP. Specifically, Table 1-2 of Part 1.2.1.3 of the 2015 MSGP required operators of industrial activities that were authorized for coverage under the 2008 MSGP, to file an electronic NOI no later than September 2, 2015. Upon submittal of the electronic NOI, the 2015 MSGP becomes effective thirty (30) days after EPA notifies the applicant that it has received a complete electronic NOI, unless EPA notifies the applicant that the authorization to discharge has been denied or delayed.
27. Additionally, Part 1.2.1 and Part 5 of the 2015 MSGP required operators of industrial activities covered under a previous version of the permit [2008 MSGP] to update the existing SWPPP to include all provision included in the permit prior to submitting the electronic NOI for coverage under the 2015 MSGP.
28. Upon the electronic NOI submittal, the discharge authorization under the 2015 MSGP becomes effective thirty (30) days after EPA notifies the applicant that it has received a complete electronic NOI, unless EPA notifies the applicant that the authorization to discharge has been denied or delayed.
29. Appendix A of the 2015 MSGP contains the following definitions:
 - a. "measurable storm event" means a precipitation event that results in a measurable amount of precipitation (i.e., a storm event that results in an actual discharge) and that follows the preceding storm event by at least 72 hours (3-days). The 72-hour storm interval does not apply if you document that less than a 72-hour interval is representative for local storm events;
 - b. "non-stormwater discharges" means discharges that do not originate from storm events. They can include, but are not limited to, discharges of process water, air conditioner condensate, non-contact cooling water, pavement wash water, external building wash-down, irrigation water, or uncontaminated ground water or spring water;
 - c. "operator" means any entity with a stormwater discharge associated with industrial activity that meets either of the following two (2) criteria:
 - (1) the entity has operational control over industrial activities, including the ability to modify those activities; or

- (2) the entity has day-to-day operational control of activities at a facility necessary to ensure compliance with the permit (e.g., the entity is authorized to direct workers at a facility to carry out activities required by the permit);
 - d. “qualified personnel” means those individuals who are knowledgeable in the principles and practices of industrial stormwater controls and pollution prevention, and who possess the education and ability to assess conditions at the industrial facility that could impact stormwater quality, and the education and ability to assess the effectiveness of stormwater controls selected and installed to meet the requirements of the permit;
 - e. “significant materials” include, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under section 101(14) of CERCLA; any chemical the facility is required to report pursuant to section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with stormwater discharges; and
 - f. “storm event” means a precipitation event that results in a measurable amount of precipitation.
30. Among others, the 2015 MSGP established the following requirements:
- a. eligibility (Part 1);
 - b. compliance measures and effluent limits (Part 2), which require the selection, design, and construction/implementation of control measures, such as non-structural and structural BMPs, to meet the non-numeric effluent limits. The selection, design, installation, and implementation of the control measures must be in accordance with good engineering practices and manufacturer’s specifications;
 - c. inspections (Part 3);
 - d. corrective actions (Part 4);
 - e. SWPPP in accordance with good engineering practices and industry standards (Part 5);
 - f. monitoring (Part 6);
 - g. reporting and record-keeping (Part 7);

- h. sector-specific requirements (Part 8); and
 - i. special and general conditions.
31. Pursuant to Part 6.2.2.3 of the 2015 MSGP, if any monitoring value exceeds a numeric effluent limitation, the following actions must be taken by the permittee:
- a. report such exceedance on a "Change NOI" form in the NPDES eReporting Tool (NeT); and
 - b. conduct follow-up monitoring within thirty (30) calendar days (or during the next qualifying runoff event, should none occur within thirty (30) days) of implementing corrective action(s) taken per Part 4 of the 2015 MSGP.
32. Pursuant to Part 6.2.2.3 of the 2015 MSGP, when the follow-up monitoring referenced in paragraph 31.b above, results in an exceedance of an applicable effluent limitation, the permittee must:
- a. submit to EPA an exceedance report no later than thirty (30) days after the receipt of the laboratory result consistent with Part 7.6 of the 2015 MSGP (ie. submit the exceedance report to the appropriate EPA Regional Office listed in Part 7.9.1 of the 2015 MSGP, and report the monitoring data through NetDMR); and
 - b. continue to monitor, at least quarterly, until the discharge is in compliance with the effluent limit or until EPA waives the requirement for additional monitoring, and once back in compliance with the effluent limitation indicate such fact on a "Change NOI" form pursuant to Part 7.4 of the 2015 MSGP.
33. Section 308(a)(A) of the CWA, 33 U.S.C. § 1318(a)(A), provides that "[w]henever required to carry out the objective of . . . [CWA Section 402], the Administrator shall require the owner or operator of any point source to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as [the Administrator] may reasonably require."
34. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that "[w]henever on the basis of any information available . . . the Administrator finds that any person is in violation of [CWA Sections 301 and 308], or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under [Section 402 of the Act, the Administrator] shall issue an Order requiring such person to comply with such section...."

35. Section 309(a)(5)(A) of the CWA, 33 U.S.C. § 1319(a)(5)(A), provides that “[a]ny Order issued under [CWA Section 309] shall be by personal service, shall state with reasonable specificity the nature of the violation, and shall specify a time for compliance . . . taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.”
36. EPA is the agency within the Commonwealth of Puerto Rico with authority to administer the federal NPDES program. EPA maintains enforcement authority for violations of the CWA and its implementing regulations.

III. JURISDICTIONAL STATEMENTS

37. Peñuelas Valley Landfill, LLC. (“Respondent PVL”) is a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico. Respondent is registered in the Puerto Rico Department of State under registration number 4,229.
38. E.C. WASTE, LLC. (“Respondent ECW”) is a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico. Respondent is registered in the Puerto Rico Department of State under registration number 4,230.
39. Hereinafter, Respondent PVL and Respondent ECW, are collectively referred to as “Respondents”.
40. Respondents’ principal office is located at Road 3, Int. PR-923, Km 1.7, Buena Vista Ward, Humacao, Puerto Rico 00718.
41. Respondents are a “person” pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
42. Respondents are the current owners and/or operators of a landfill facility, known as Peñuelas Valley Landfill (“PVL” or “Landfill”). The PVL is located at Road PR-385, Km .4.5, Tallaboa Ward, Peñuelas, Puerto Rico.
43. At all relevant times to this Order, Respondents were the owners/operators of the Landfill.
44. Respondents’ activities at the Landfill mainly consist of the management and disposal of industrial wastewater, industrial/commercial waste and sludge from the Puerto Rico Aqueduct and Sewer Authority (“PRASA”) treatment facilities. These operations at the Landfill are best described by the Standard Industrial Classification (“SIC”) Code 4953 (refuse system, landfills).
45. Stormwater runoff containing “pollutants” associated with industrial activities conducted at the Landfill is collected in concrete line culverts and ditches that discharge directly into an unnamed creek. This unnamed creek flows along the east and south sides of the Landfill premises, which in turn flows into the Tallaboa

Industrial Channel, a tributary of the Tallaboa River. The Tallaboa River discharges into the Caribbean Sea, a territorial sea and water of the United States.

46. The Landfill is a “facility” as defined in 40 C.F.R. § 122.2.
47. The Landfill is a “point source” pursuant to Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
48. The unnamed creek, the Tallaboa Industrial Channel, the Tallaboa River, and the Caribbean Sea are waters of the United States pursuant to Section 502(7) of the CWA, 33 U.S.C. § 1362(7), and 40 C.F.R. § 122.2.
49. Respondents are subject to the provisions of the CWA, 33 U.S.C. § 1251, et seq., and the applicable NPDES permit application regulations found at 40 C.F.R. § 122.

IV. FINDINGS OF VIOLATIONS

50. On August 9, 2016, an EPA official reviewed several EPA’s enforcement and compliance databases to determine Respondents’ compliance with Act and the NPDES stormwater permit application regulations (the “Record Review”).
51. The Record Review revealed that:
 - a. on January 29, 2001, Respondent PVL submitted an electronic NOI form to EPA to seek coverage under the 2000 MSGP obtaining coverage effective February 28, 2001 under NPDES tracking number PRR05A898;
 - b. on January 2, 2009, Respondent PVL submitted an electronic NOI form to EPA to seek coverage under the 2008 MSGP obtaining coverage effective February 1, 2009 under NPDES tracking number PRR05BK78;
 - c. on October 5, 2015, Respondent ECW submitted an electronic NOI to EPA seeking coverage for the Landfill under the 2015 MSGP obtaining coverage effective November 4, 2015, under permit tracking number PRR053203; and
 - d. as part of the electronic NOI submittal seeking coverage for the Landfill under the 2015 MSGP, Respondent ECW provided an internet address¹ to make certain information of the August 2015 SWPPP available to the public.
52. On August 10, 2016, an EPA official conducted a Compliance Evaluation Inspection (“Inspection”) of the Landfill. The purpose of the Inspection was to evaluate Respondent’s compliance with the Act, the NPDES stormwater permit regulations and the 2015 MSGP.

¹ The SWPPP can be found at the following URL address: https://ecwaste1-public.sharepoint.com/SiteAssets/Penuelas_Valley_Landfill_SWPPP_MSGP2015.pdf.

53. During the Inspection, the EPA official conducted a walkthrough of the Landfill. Also, the EPA official performed a review of the SWPPP prepared for the Landfill.
54. The findings of the Inspection were summarized in the NPDES Water Compliance Inspection Report ("Inspection Report"), dated December 14, 2016. See **Attachment 1** of this Order for a copy of the Inspection Report.
55. The walkthrough the Landfill revealed, among other things, the following:
 - a. the structural BMPs, such as the stormwater retention pond, were not effective in removing sediments from stormwater runoff to minimize pollutants in the discharge as required by Part 2.1 of the 2015 MSGP; and
 - b. closed cells slopes, roads and earthen ditches of the stormwater collection system were not efficient in controlling erosion and sediment resulting from stormwater runoffs to minimize the discharge of pollutants as required by Part 2.1.2 of the 2015 MSGP.
56. During the Inspection EPA performed a review of the August 2015 SWPPP. EPA noticed that corrective actions were not documented in the SWPPP as required in Part 4 of the 2015 MSGP.
57. On November 29, 2016, EPA received from Respondent a copy of the laboratory report of a stormwater runoff sampling event performed on October 18, 2017 ("Effluent Limitation Sampling Report").
58. The result reported in the Effluent Limitation Sampling Report for Total Suspended Solids ("TSS") was 1,510 mg/L, which exceeded the effluent limitation of 88 mg/L established in Part 8.L.10 of the 2015 MSGP for TSS.
59. Respondents' permit conditions violations stated above constitute a violation of Section 301(a) of the Act and the applicable NPDES regulations.
60. Pursuant to Section 309(a) of the Act, 33 U.S.C. § 1319(a), EPA has enforcement authority to issue this Order to address Respondents' violations of the conditions of the 2015 MSGP permit, issued under Section 402(p) of the Act.

V. ORDERED PROVISIONS

In consideration of the Findings of Violations, above, and pursuant to the authority in Section 309(a) of the CWA, 33 U.S.C. § 1319(a), EPA has determined that compliance with the following requirements is reasonable.

IT IS HEREBY ORDERED:

61. **Within three (3) calendar days upon receipt of the originals of this Order**, an authorized representative of Respondents shall complete and submit the acknowledgment of receipt on one of the originals of the Order to EPA.
62. **Within fifteen (15) calendar days of receipt of this Order**, Respondents shall amend the electronic NOI submitted by Respondent ECW pursuant to the requirements in Parts 1 and 7 of the 2015 MSGP to reflect the current operator(s) of the Landfill. Respondents shall also submit within this timeframe, a written communication to EPA certifying its submission of a complete and accurate amended electronic NOI.
63. **Within thirty (30) days of receipt of this Order**, Respondents shall prepare and submit a Work Plan, for EPA's review and approval, to achieve compliance with the 2015 MSGP. The Work Plan shall describe the specific tasks to be performed, including a schedule with the expected completion date of each task. All activities included in the Work Plan shall be completed within hundred and twenty (120) calendar days from the receipt date of this Order and shall contemplate dates for the Monthly Progress Reports submittal, as indicated in paragraph 64 below.

The Work Plan shall address the findings in the inspection report, and, at a minimum, include the following:

- a. a description of the planned improvements, and maintenance and/or replacement of the existing BMPs, as required in Parts 2 and 5 of the 2015 MSGP;
- b. revision of the SWPPP dated August 2015, to comply with the requirements of Parts 4 and 5 of the 2015 MSGP;
- c. implementation of corrective actions pursuant to Part 4 of the 2015 MSGP in order to comply with the effluent limitation for TSS through outfall 001 established in Part 8.L.10 of the 2015 MSGP;
- d. monitoring of TSS at outfall 001, as required in Part 6.2.2 of the 2015 MSGP;
- e. preparation and implementation of a rainfall data collection, management, and record-keeping Standard Operating Procedure at the Landfill;
- f. preparation and implementation of a stormwater sampling Standard Operating Procedure at the Landfill;
- g. fixed-date schedules for the implementation of BMPs to achieve compliance, as required in Parts 2 and 5.2.5 of the 2015 MSGP; and

- h. estimated costs of achieving compliance, including capital costs of the proposed BMPs, including the operations and maintenance ("O&M") costs associated with any future plan developed as part of the Work Plan. The estimated cost shall include, at a minimum, but not limited to, monitoring equipment, labor, and laboratory analysis cost, training of personnel, etc., which will be required to implement the plan and correct the findings of violations.

Respondents shall immediately implement the approved Work Plan according to the milestones and schedules included therein, which will become an enforceable provision of this Order.

- 64. Respondents shall prepare and submit Monthly Progress Reports (on the 15th day of the month). The first monthly report shall be submitted on April 15, 2017 and every 30 days thereafter, until this Order is no longer effective or until full compliance with this Order has been achieved and EPA notifies Respondent that submissions are no longer required. The Monthly Progress Report shall include:
 - a. the specific activities undertaken to bring the Landfill into compliance with the Act, the applicable NPDES regulations and the 2015 MSGP, as provided for in the Work Plan in paragraph 63, above;
 - b. the status of the implementation of the Work Plan developed pursuant to paragraph 63, above;
 - c. description of any impediment Respondent encountered in the process to comply with the Ordered Provisions included in this Order and the steps taken to minimize any setbacks in the completion of any activity required as part of this Order; and
 - d. a cost report detailing the expenses incurred, as of the date of the Monthly Progress Reports concerning the milestones and activities performed towards meeting the Provisions of this Order.

VI. REQUESTED INFORMATION

Based on the Findings of Violations, above, and pursuant to the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), Respondents are required to submit the following to EPA in writing.

- 65. **Within twenty (20) calendar days of receipt of this Order**, Respondents shall submit documentation of the actions taken, pursuant to Part 6.2.2.3 of the 2015 MSGP, after exceeding the effluent limitation for TSS on the sampling performed on October 18, 2016. The information provided shall, at a minimum, include the following:

- a. evidence that Respondents reported the TSS exceedance on a "Change NOI" form in the NPDES eReporting Tool (NeT);
- b. evidence that Respondents conducted a follow-up monitoring within thirty (30) calendar days after exceeding the effluent limitation for TSS (or during the next qualifying runoff event, should none occur within thirty (30) days) of implementing corrective action(s); and
- c. evidence that Respondents reported the results of the follow-up monitoring referenced in paragraph 65.b above, on a "Change NOI".

VII. GENERAL PROVISIONS

- 66. Any questions concerning this Order should be directed to Jaime López, Senior Enforcement Officer, Clean Water Act Team, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division, at (787) 977-5851 / lopez.jaime@epa.gov.
- 67. Any documents to be submitted by Respondent as part of this Order shall be sent by certified mail or its equivalent, and shall be signed by an authorized representative (see 40 C.F.R. § 122.22), and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- 68. All information required to be submitted under this Order shall be sent by certified mail (or its equivalent) to the following contacts and their addresses:

Director, Water Quality Area
Environmental Quality Board
P. O. Box 11488
San Juan, Puerto Rico 00910;

and

Team Leader, Clean Water Act Team
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II, Suite 7000
48 RD. 165 Km. 1.2
Guaynabo, PR 00968-8069.

69. Respondent shall have the opportunity, for a period of twenty (20) days from the effective date of this Order, to confer, regarding the requested information and the Ordered Provisions, with the following designated Agency representative: Jaime López, Clean Water Act Team, Multimedia Permits and Compliance Branch, Caribbean Environmental Protection Division located at City View Plaza II – Suite 7000, 48 RD 165, Km 1.2, Guaynabo, Puerto Rico, with phone number (787) 977-5851, and email lopez.jaime@epa.gov.
70. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, provides the grounds for such review.
71. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, the NPDES implementing regulations, or any applicable permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.
72. Notice is hereby given that failure to comply with the terms of the CWA Section 309(a)(3) Compliance Order may result in Respondent's liability for civil penalties for each violation of up to \$52,414 per day under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if the Court determines that Respondent has violated the CWA as described above and failed to comply with the terms of this Order. The District Court has the authority to impose separate civil penalties for any violations of the CWA and for any violations of this Order.
73. Notice is hereby given that failure to comply with the requirements of the CWA Section 308 Information Request may result in Respondent's liability for civil penalties for each violation of up to \$52,414 per day under Section 309(d) of the CWA, as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if the Court determines that Respondent has failed to comply with the terms of the Information Request. Respondent may also be subject to administrative remedies for a failure to comply with the Information Request as provided by Section 309 of the CWA, 33 U.S.C. § 1319.

74. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.
75. This Order shall become effective upon the date of execution by the Director, Caribbean Environmental Protection Division.

Dated: MARCH 1, 2017

Signed: _____


CARMEN R. GUERRERO-PÉREZ

Director

Caribbean Environmental Protection Division

Attachment 1 – August 10, 2016 Compliance Inspection Report

cc: Director, Water Quality Area
Puerto Rico Environmental Quality Board

ATTACHMENT 1

August 10, 2016

Water Compliance Inspection Report